

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JOHN A RICHARDSON III,

Plaintiff,

v.

MARGARET GILBERT, THERESA  
HILLIARD, SHANE EVANS, INDIVIDUAL  
MEDICAL STAFF, SCOTT M LIGHT,  
JANE AND JOHN DOES 1-6,

Defendants.

Case No. C19-5525 BHS-TLF

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

This matter comes before the Court on plaintiff's motion to appoint counsel. Dkt. 62. For the reasons discussed below, plaintiff's request is denied without prejudice.

A plaintiff has no constitutional right to appointed counsel in an action under 42 U.S.C. § 1983. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this section is discretionary, not mandatory."). In "exceptional circumstances," the Court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)). *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

The Court must evaluate both "the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved", to make an assessment whether exceptional circumstances

1 show that counsel should be appointed. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331  
2 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff  
3 must plead facts that show he has an insufficient grasp of his case or the legal issue(s)  
4 involved, as well as an inadequate ability to articulate the factual basis of his claim.  
5 *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).  
6 Although a *pro se* litigant may be better served with the assistance of counsel, that is  
7 not the test. *Rand*, 113 F.3d at 1525.

8 Plaintiff argues only that he is indigent and that he has attempted, without  
9 success, to retain counsel. Dkt. 62 at 2. Plaintiff has not identified conditions that render  
10 this case extraordinary or set his circumstances apart from those of any other  
11 incarcerated litigant. Furthermore, plaintiff has demonstrated that he has a sufficient  
12 grasp of the legal issues involved in this case and has adequately articulated the basis  
13 of his claim, as his complaint was sufficiently presented to pass this Court's screening  
14 and to be served upon defendant. Dkt. 15.

15 This case does not, at this time, present the extraordinary circumstances  
16 required for the appointment of counsel. *See Wilborn*, 789 F.2d at 1331. The Court  
17 therefore DENIES plaintiff's motion for appointment of counsel without prejudice.

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19 Dated this 5th day of January, 2022.

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23 Theresa L. Fricke  
24 United States Magistrate Judge  
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